

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

RICHARD D. DILLINGER and  
MICHELLE L. DILLINGER, his wife.,

NO.: 5:22-cv-11 (Bailey)

Plaintiffs,

v.

ELECTRONICALLY  
FILED  
1/19/2022  
U.S. DISTRICT COURT  
Northern District of WV

PETROLEUM FUEL & TERMINAL  
COMPANY, APEX OIL COMPANY, INC.,  
CENTER POINT TERMINAL J&W, LLC,  
CENTER POINT TERMINAL COMPANY,  
LLC, and JOHN DOE(S),

**JURY TRIAL DEMANDED HEREIN**

Defendants.

**NOTICE OF REMOVAL**

AND NOW, come the Defendants Petroleum Fuel & Terminal Company, Apex Oil Company, Inc., Center Point Terminal J & W, LLC, and Center Point Terminal Company, LLC, by and through the undersigned counsel, and remove the above-captioned lawsuit pursuant to 28 U.S.C. § 1441, *et seq.* from the Circuit Court of Ohio County, West Virginia (Civil Action No. 20-C-56), to the United States District Court for the Northern District of West Virginia, and in support thereof, aver as follows:

1. Plaintiffs, Richard D. Dillinger and Michelle L. Dillinger, initiated this lawsuit in the Circuit Court of Brooke County, West Virginia at Civil Action No. cc-05-2021-c-74 (Copies of the docket and all pleadings and process filed in the State Court action are attached hereto as Exhibit "A").

2. The Complaint names Defendants Petroleum Fuel & Terminal Company, Apex Oil Company, Inc., Center Point Terminal J & W, LLC, and Center Point Terminal Company, LLC, and John Does as Defendants.

3. The Complaint asserts claims sounding in negligence relative to an incident that is alleged to have occurred on or about December 6, 2019 in Weirton, Brooke County, West Virginia.

4. Per the Complaint, Plaintiff Richard Dillinger alleges that Defendants' conduct caused him to fall to the ground violently and with great force severely and permanently injuring himself.

5. Per the Complaint, Plaintiff seeks an award of damages relative to injuries allegedly sustained in the incident, including compensatory damages for past, present and future medical and life care expenses, lost wages, loss of earning capacity and all other special damages and loss of services; past, present and future pain and suffering, mental anguish, permanent injury, inconvenience, loss of society, service, and companionship, loss of enjoyment of life and emotional distress.

6. Per the Complaint, Plaintiffs are residents of the State of Ohio.

7. Defendant, Petroleum Fuel & Terminal Company, is a Missouri Corporation, with its principal place of business located in St. Louis, Missouri.

8. Defendant, Apex Oil Company, Inc., is a Missouri Corporation, with its principal place of business located in St. Louis, Missouri.

9. Defendant, Center Point Terminal J & W, LLC, is a Missouri Limited Liability Company, with its principal place of business located in St. Louis, Missouri.

10. Defendant, Center Point Terminal Company, LLC, is a Missouri Limited Liability Company, with its principal place of business located in St. Louis, Missouri.

11. The above-captioned action, pending in the Circuit Court of Brooke County, West Virginia, is within the jurisdiction of the United States District Court for the Northern District of West Virginia.

12. The United States District Court for the Northern District of West Virginia has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 in as much as the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and is between citizens of different states.

13. This action is removable to the Circuit Court of Ohio County, West Virginia, pursuant to the provision of 28 U.S.C. § 1441, *et seq.*

14. Concurrent with the filing of this Notice of Removal, Defendants have filed a Notice of Filing of Notice of Removal with the Clerk of the Circuit Court of Brooke County, West Virginia advising that it has removed this action to the United States District Court for the Northern District of West Virginia.

15. In filing this Notice of Removal, Defendants do not waive any affirmative defenses that they may assert in this action.

WHEREFORE, Defendants, respectfully that this Court remove this matter from the Circuit Court of Brooke County, West Virginia to the United States District for the Northern District of West Virginia.

**JURY TRIAL DEMANDED**

Respectfully submitted,

PION, NERONE, GIRMAN, WINSLOW  
& SMITH, P.C.

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Counsel for Defendants,  
Petroleum Fuel & Terminal Company,  
Apex Oil Company, Inc.  
Center Point Terminal J&W, LLC, and  
Center Point Terminal Company

**CERTIFICATE OF SERVICE**

I, Jordan C. Hettrich, Esquire, hereby certify that a true and correct copy of the foregoing NOTICE OF REMOVAL was served upon counsel of record via email, this 19th day of January, 2022, as follows:

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